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Patent  
Attorney's Docket No. 033025-002



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )  
Naohiro TAKEMOTO et al ) Group Art Unit: 1647  
Application No.: 10/009,566 ) Examiner: Stephen Gucker  
Filed: December 12, 2001 ) Confirmation No.: 4857  
For: AMINOPHENOXYACETAMIDE )  
DERIVATIVES AND )  
PHARMACEUTICAL COMPOSITION )  
CONTAINING THEREOF )

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In complete response to the Requirement for Restriction issued by the Patent and Trademark Office on November 3, 2003, Applicants hereby elect, with traverse, the invention of Group III, claims 1-3 and 22-24 for prosecution in this application. Group III is directed to compounds and pharmaceutical compositions, wherein E2 is a nitrogen.

The traversal is based upon the fact that the instant application was filed under §371. Applicants are thus entitled to a "unity of invention standard" for determining restriction. It is respectfully submitted that "unity of invention" exists in the instant case.

Moreover, according to the MPEP §803, a restriction between patentably distinct inventions is proper only where there is a serious burden on the Examiner to examine all the claims in a single application. This is true even when appropriate reasons exist for a restriction requirement.

In the present application, it is believed that because there is a close relationship between the subject matter of the ten sets of claims, there would be no serious burden on the Examiner to examine all the claims at this time.

At the very least, the restriction requirement should be modified to join Groups I-IV.

Group I is drawn to the same claims as Group III, with the only difference being that E2 is an oxygen rather than a nitrogen. Groups II and IV are the methods of using the compounds of Groups I and III, respectively. Alternatively, Groups III and IV could be joined since they are directed to the product and method of use of that product. No undue burden would exist to examine these Groups of claims together.

In view of the above, it is respectfully requested that the restriction requirement be withdrawn or at the very least altered.

In the event that there are any questions relating to this amendment or the application in general, it would be appreciated if the Examiner would contact the undersigned attorney at (650) 622-2360.

Early and favorable action in the form of a notice of allowance is respectfully requested.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: December 2, 2003

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